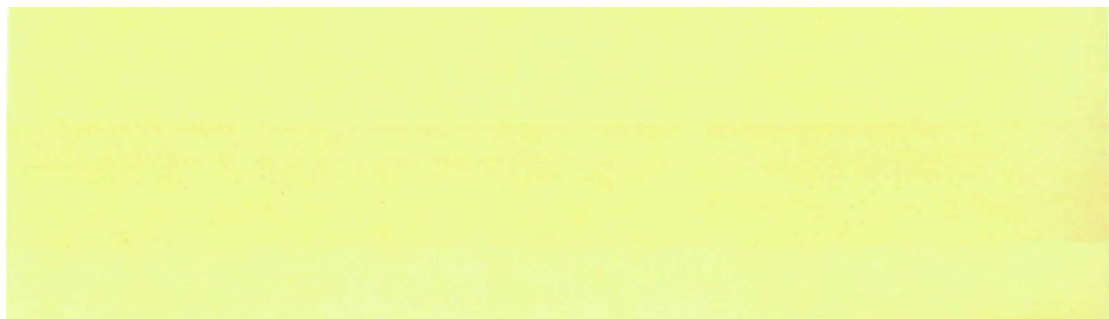


Tab 46



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LANDFILL GAS PURCHASE AGREEMENT
BETWEEN
USA WASTE OF VIRGINIA, INC.
AND
INDUSTRIAL POWER GENERATING CORPORATION
FOR THE
AMELIA LANDFILL

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LANDFILL GAS SALES AGREEMENT

This LANDFILL GAS PURCHASE AGREEMENT (the "Agreement") is executed this 19th day of October, 2000, by and between USA Waste of Virginia, Inc., a Virginia corporation, whose address is 20221 Maplewood Road, Jetersville, Virginia 23002 ("Seller"), and Industrial Power Generating Corporation, a Virginia corporation, whose address is 2369 Lanier Road, Rockville, Virginia 23146 ("Purchaser"), (collectively "Parties").

RECITALS

A. Seller owns the Amelia Landfill ("Landfill") located at 20221 Maplewood Road, Jetersville, Virginia 23002; and

B. Landfill Gas, consisting primarily of methane and carbon dioxide, is produced from decomposing refuse within the Landfill; and

C. Seller previously constructed facilities to collect and deliver Landfill Gas from the Landfill; and

D. Seller desires to produce, deliver, and sell Landfill Gas collected from current and future operations of the Landfill to Purchaser; and

E. Purchaser desires to purchase such Landfill Gas during the term of this Agreement and in accordance with its terms and conditions; and

F. Pursuant to the terms of a Site Lease Agreement to be executed in a form substantially the same as that attached as Exhibit B, Purchaser may lease certain real estate from Seller at the Landfill ("Leased Premises") on which Leased Premises Purchaser may install necessary equipment to generate electric energy and sell such energy either to Virginia Electric and Power Company or another energy purchaser ("Power Purchaser") under the terms of a

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written contract to be entered into between Purchaser and Power Purchaser ("Power Purchase Agreement").

G. In the event Purchaser leases such real estate from Seller, Purchaser also desires to be permitted to utilize the Leased Premises for the installation of electrical generating equipment which utilizes fuels other than Landfill Gas in order to generate electricity for sale to the Power Purchaser.

THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser agree as follows:

ARTICLE I

PURCHASE OBLIGATION AND COMMERCIAL SUPPLY

1.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all existing or future Landfill Gas produced at the Landfill during the term of this Agreement. The term "Landfill," as herein used, shall include all closed, currently active and future areas generating Landfill Gas.

1.2 Reasonable Efforts. Seller shall use reasonable efforts to provide Purchaser with Landfill Gas over the term of this Agreement.

1.3 Remedy for Purchaser's Failure to Take Declared Landfill Gas. In the event Purchaser fails to accept all Landfill Gas generated by the Landfill, Purchaser shall nevertheless provide payment to Purchaser for all Landfill Gas tendered by Seller during the term of this Agreement, subject to the terms of Paragraph 6.4. This Agreement shall be deemed a "take or pay" contract.

ARTICLE II

PRICE, BILLING AND PAYMENT

2.1 Purchase Price. Except as otherwise provided herein, the payment rate for all Landfill Gas tendered by Seller to Purchaser shall be \$ [REDACTED] per MMBTU. Tender and payment for Landfill Gas shall begin on the first to occur of: (i) the placed-in-service-date of Purchaser's electrical generating equipment, or (ii) 12 months from the effective date of this Agreement.

2.2 Billing and Payment.

- a. Billing. Purchaser shall provide to Seller payment for the amounts due and owing under the terms of this Agreement and the Site Lease Agreement on a monthly basis, on or before the 30th day of the succeeding month.
- b. Errors in Billing. If either party hereto shall find at any time within one year after the date of any payment hereunder that there has been an overcharge or undercharge, the party finding the error shall promptly notify the other party in writing. In the event of an undercharge, Purchaser shall pay the amount due within 30 days of the date of the notice of error. In the event of an overcharge, Seller shall refund the overpayment to Purchaser within 30 days of the date of the notice of error.
- c. Interest. Interest shall accrue on any amount not paid on or before the due date therefore at an annual rate equal to 1%, plus the prime rate of Citibank, N.A., New York, New York, or its successor.
- d. Records. Each party shall have the right, at its sole expense during normal business hours, to examine the other party's records to the extent

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necessary to verify the accuracy of any statement, change, notice, or computation made hereunder.

ARTICLE III

TAX CREDITS

3.1 Tax Credits. Any Internal Revenue Code Section 29 Tax Credits or any other similar state, federal or local credits or deductions available to landfill gas producers and arising from the Seller's production and sale of Landfill Gas from the Landfill ("Tax Credits") shall be the property of Seller. Purchaser shall not take any actions including, by way of example, taking or claiming other credits, deductions or benefits which would in any way reduce the amount of the Tax Credits to which Seller is otherwise entitled. Subject to the above, Purchaser shall be entitled to all benefits under Internal Revenue Code Section 45, as they relate to the credits tied to electrical production or other credits, deductions or benefits under federal, state or local law tied to the production of electricity.

ARTICLE IV

POINT OF DELIVERY

4.1 Point of Delivery. The Point of Delivery for all Landfill Gas sold hereunder shall be at the interconnection between Purchaser's Facilities and Seller's Facilities where Purchaser's meter measures the Landfill Gas being sold to Purchaser. Title to and control and possession of the Landfill Gas sold hereunder shall pass to Purchaser at the Point of Delivery.

ARTICLE V

FACILITIES

5.1 Seller's Facilities. Seller shall bear the expense of and duty to maintain and operate Seller's Facilities. Seller's Facilities shall include all equipment required to produce and

process the Landfill Gas, to deliver such Landfill Gas to the Point of Delivery, and to combust any Landfill Gas which may be returned to Seller by Purchaser, including all equipment required to be owned by Seller in order to claim entitlement to the Credits. In its future development of Landfill Gas production and control facilities, Seller agrees to tie such facilities into the existing Landfill Gas collection and distribution system, and to make such future quantities of Landfill Gas available to Purchaser at the Point of Delivery. Seller shall be solely responsible for the management of Landfill Gas at the Landfill, up to the Point of Delivery. At all times during the term hereof, Seller's Facilities shall be designed, constructed and operated in compliance with all applicable laws and regulations.

5.2 Purchaser's Facilities. At no cost to Seller, Purchaser shall construct, operate and maintain all facilities (including the facilities listed below) necessary to enable Purchaser to accept delivery of Landfill Gas from Seller at the Point of Delivery and to generate electrical energy for sale to the Power Purchaser. Purchaser's Facilities shall include, without limitation:

- (a) a pipeline suitable to transport Landfill Gas from the Point of Delivery to the Purchaser's electrical generating equipment;
- (b) all equipment required for the connection of the existing blower to the Point of Delivery;
- (c) an electrical production facility designed to produce on-call up to 25 megawatts of electrical power;
- (d) all metering equipment required to measure Landfill Gas energy content.
- (e) electric metering equipment necessary at the point of interconnection of:
Purchaser's Facilities and Power Purchaser's equipment.

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- (f) any piping to convey wastewater from Purchaser's Facilities to Seller's existing leachate/condensate collection system; and
- (g) electrical power transmission lines and associated equipment to transmit power to the Power Purchaser.

Purchaser shall be responsible for all costs and expenses to construct, maintain and operate Purchaser's Facilities. At all times during the term hereof, Purchaser's Facilities shall be designed, constructed, and operated in compliance with all applicable laws and regulations, including, without limitation environmental laws and regulations. Purchaser shall construct and install Purchaser's Facilities in accordance with the milestones set forth in Exhibit "A" attached hereto;

5.3 Use of Premises. At the option of Purchaser, Seller agrees to lease to Purchaser certain real estate which is located at the Landfill ("Premises"), in accordance with the terms of the Site Lease Agreement attached hereto as Exhibit "B." In the event Purchaser elects not to enter into the Site Lease Agreement, Seller grants Purchaser a non-exclusive license to utilize the Premises during the term of this Agreement for purposes of: (i) ingress and egress to Purchaser's Facilities, and (ii) construction, operation and maintenance of Purchaser's Facilities.


ARTICLE VI

GAS QUALITY

6.1 Heating Value. The parties anticipate that the Landfill Gas delivered hereunder will have a minimum heating value of no less than 480 BTUs per cubic foot. The heating value of the components found in Landfill Gas shall have the values as defined by the American Gas Association Report No. 3, printed as ANSI/API 2530. Tests to determine heating value shall be

performed in accordance with the provisions of paragraph 7.2 and such test results shall be used in the computation of amount billed under Article II. Seller shall use reasonable efforts to operate the Landfill so as to maintain a minimum heating value of 480 BTUs per cubic foot, provided, however, Seller shall be free at all times during the term hereof to take any reasonable action Seller deems necessary or desirable, in Seller's sole judgment, in connection with the Landfill, including, without limitation, any action required to comply with any law, regulation, permit or order of any governmental authority, without regard to the effect of such action on the quantity or quality of Landfill Gas extracted from the Landfill. For purposes of calculating payments due hereunder, the heating value of the Landfill Gas shall be the calculated corrected saturated BTU content per cubic foot of the total Landfill Gas sample at a base temperature of 60 degrees Fahrenheit and a base pressure equivalent of 14.73 psia based on the measured uncorrected dry BTU content per cubic foot of the total Landfill Gas sample.

6.2 Delivery Pressure. Seller will deliver Landfill Gas to Purchaser hereunder at a pressure of at least 2" Water Column. Seller will continue to operate and maintain its blower for the delivery of Landfill Gas to Purchaser.

6.3 Non-Conforming Landfill Gas. Any Landfill Gas that does not meet the heating value specifications set forth in Section 6.1, or the delivery pressure set forth in Section 6.2 shall be deemed Non-Conforming Landfill Gas. Delivery of such Non-Conforming Landfill Gas to Purchaser shall not be a breach of this Agreement and shall not give rise to any liabilities or obligations to Purchaser by Seller hereunder or otherwise, including, but not limited to, consequential or special damages. The price for such Non-Conforming Landfill Gas shall be \$ per MMBTU.

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6.4 Combustion of Landfill Gas Not Resold by Purchaser. Purchaser shall combust by flare all Landfill Gas purchased hereunder which is not utilized for electrical energy generation or otherwise sold to a third party, provided that Purchaser may redeliver such Landfill Gas to Seller to be combusted in Seller's flare at the Landfill ("Seller's Flare"). Seller shall maintain and operate Seller's Flare in such a manner as to destroy all Landfill Gas not utilized by Purchaser, in full compliance with applicable laws and regulations.

6.5 Disclaimer of Warranties. Seller makes no warranties as to the quality or quantity of the Landfill Gas delivered to Purchaser hereunder. THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE LANDFILL GAS SOLD HEREUNDER.

ARTICLE VII

UNITS OF VOLUME - MEASUREMENT

7.1 Unit of Volume. Except for the determination of heating value, the unit of volume for measurement of Landfill Gas delivered hereunder will be one (1) cubic foot of Landfill Gas at a base temperature of 60 degrees Fahrenheit and at an absolute pressure of 14.73 pounds per square inch. All fundamental constants shall be in accordance with the standards prescribed in the National Standard ANSI-API 2530, Second Edition, as reprinted in September 1986, with any subsequent amendments which may be mutually acceptable to Purchaser and Seller. All quantities set out herein, unless otherwise expressly stated, are in terms of 1,000 of such units (MCF).

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7.2 Landfill Metering.

- a. Metering Equipment. Purchaser shall install, operate, and maintain in accurate working order, metering devices for the measurement of the Landfill Gas delivered hereunder, at Purchaser's sole cost and expense.
- b. Meter Tests. Purchaser, at its sole cost and expense, shall keep the metering equipment accurate and in repair, making such periodic tests as Seller deems reasonably necessary, but at least once each year. Purchaser shall give Seller reasonable advance notice of any such test so that Seller may have its representative present. Seller may request a special test of the metering equipment at any time. Tests to verify the accuracy of measuring equipment shall be performed by the manufacturer of the equipment, or other third party reasonably acceptable to Seller, at least once each year and the result of each test shall continue to be used until the results of a subsequent test are known. The expense of any such special test shall be borne by Seller if the equipment is found to be inaccurate by less than 2%. If, upon any test, the equipment is found to be inaccurate by more than 2%, meter readings shall be corrected for a period extending back to the time such inaccuracy first occurred, if that time can be ascertained. If that time is not ascertainable, corrections shall be made for one half of the elapsed time since the previous meter calibration.
- c. Meter Out of Service. If, for any reason, Purchaser's metering equipment is out of service or out of repair so that the amount of Landfill Gas delivered cannot be ascertained or corrected pursuant to Paragraph 7.2b,

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Purchaser shall estimate the amount of Landfill Gas delivered during the period when the metering equipment is out of service or out of repair based on deliveries during earlier periods under similar conditions when the metering equipment was registering properly.

ARTICLE VIII

AUTHORITY AND PERMITS

8.1 Permits: Authorizations. Seller and Purchaser each, at their own respective expense, shall obtain and maintain all permits, authorizations, easements, and rights of way required for the performance of its obligations hereunder, using reasonable efforts to obtain and maintain the permits and authorizations necessary for the operation of the Landfill Gas collection system and operation of those other facilities required in order to fulfill their respective obligations hereunder. Each party shall provide the other with a copy of all permits and authorizations obtained promptly upon receipt thereof.

8.2 Public Utility Status. Neither party hereto intends to hold itself out as a public utility or to submit to the public utility jurisdiction of the Virginia State Corporation Commission, or any other state or federal regulatory agency ("Commission") by reason of the production, delivery, or sale of Landfill Gas hereunder or by reason of the generation of electric energy and capacity using Landfill Gas; provided however, that both Parties agree to submit to the jurisdiction of any agency that administers laws or regulations concerning pipeline safety or other matters relating to the safe handling of Landfill Gas. To that end, each party may, in its sole discretion, seek a ruling from the Commission or other assurances satisfactory to such party that the extrication, delivery, or sale of Landfill Gas will not subject such party to the jurisdiction of the Commission. Notwithstanding any of the above, Purchaser may seek to obtain Exempt

Wholesale Generator (EWG) status, Qualified Facility status (QF) or other federal and/or state designation appropriate to a non-regulated power generator, as long as such designations are not financially detrimental to Seller.

8.3 Mutual Assistance. Upon request, the Parties hereto shall use reasonable efforts to support and assist one another in the acquisition of any required permit or authorization. Such support shall include, without limitation, participation in regulatory proceedings and provision of information concerning each party's operations.

8.4 Emissions Credits. Any air emission credits arising from Seller's production and sale of Landfill Gas from the Landfill shall be the property of Seller. If Purchaser must obtain emissions credits or offsets for any governmental permits or authorizations required for Purchaser's Facilities, Seller shall provide such credits or offsets, but only if such credits or offsets are available as a consequence of Seller's reductions in emissions of Landfill Gas or of Landfill Gas combustion products with respect to Landfill Gas sold to Purchaser, and only if use of such credits or offsets by Purchaser is not inconsistent with Seller's need to retain any governmental permits or authorizations required for its own operations. Any Emission Credits which accrue as a result of Purchaser's permitted power generation activity shall be the property of Purchaser.

ARTICLE IX

TERM AND RIGHT TO TERMINATE

9.1 Term. The term of this Agreement shall commence on the date first written above and shall continue for an initial term of 10 years. Provided that Purchaser is not then in default, Purchaser may elect to extend the term of the Agreement for two additional terms of five years

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each, upon Purchaser's provision of written notice received by Seller no later than 90 days from the expiration of the then current term.

9.2 Seller's Right to Terminate. Seller may terminate this Agreement by written notice to Purchaser upon the occurrence of any of the following events:

- a. At any time during the term of this Agreement, the Commission, or any other regulatory or legislative body, asserts jurisdiction over Seller and requires that Purchaser pay Seller a lower price for Landfill Gas purchased hereunder than that price otherwise provided under this Agreement; or
- b. Purchaser fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than 18 months; or
- c. The initiation of an involuntary proceeding against Purchaser under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for 120 consecutive days, or in the event of the initiation by the Purchaser of a voluntary proceeding under the bankruptcy or insolvency laws; or
- d. Purchaser fails to perform any material obligation hereunder, and fails to cure such failure to perform within 60 days after receipt of Seller's notice of such failure of performance, or if such cure cannot be completed in 60 days, Purchaser fails to promptly initiate and implement such cure in a prompt fashion.

Upon termination authorized by this section 9.2, neither party shall have any further obligation to the other, including liability for payment of compensatory, special or consequential damages, except that: (i) Purchaser shall remain obligated to pay Seller for all Landfill Gas

delivered hereunder prior to the time of termination, at the price in effect on the date of delivery, calculated pursuant to Article II, and (ii) the indemnification obligations of Paragraph 12.1 shall remain in effect.

9.3 Purchaser's Right to Terminate. Purchaser may terminate this Agreement by written notice to Seller upon the occurrence of any of the following events:

- a. At any time during the term of this Agreement, the Commission, or any other regulatory or legislative body, asserts jurisdiction over Purchaser and requires that Purchaser pay Seller a higher price for Landfill Gas purchased hereunder than the price otherwise provided under this Agreement; or
- b. Seller fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than 18 months; or
- c. The initiation of an involuntary proceeding against Seller under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for 120 consecutive days, or in the event of the initiation by the Seller of a voluntary proceeding under the bankruptcy or insolvency laws; or
- d. Seller fails to perform any material obligation hereunder, and fails to cure such failure to perform within 60 days after receipt of Purchaser's notice of such failure of performance, or if such cure cannot be completed in 60 days, Seller fails to promptly initiate and implement such cure in a prompt fashion.

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Upon termination authorized by this section 9.3, neither party shall have any further obligation to the other, including liability for payment of compensatory, special or consequential damages, except that: (i) Purchaser shall remain obligated to pay Seller for all Landfill Gas delivered hereunder prior to the time of termination, at the price in effect on the date of delivery, calculated pursuant to Article II; (ii) Purchaser shall be bound by the terms of Paragraph 9.4 below; and (iii) the indemnification obligations of Paragraph 12.1 shall remain in effect.

9.4 Seller's Additional Rights. In the event Purchaser should be in default of any of its financial obligations to Purchaser's lender and, as a result, Purchaser's lender should advise Purchaser of its intent to foreclose on and/or otherwise assume title and/or possession of all or any of Purchaser's Facilities: (i) Purchaser shall immediately provide written notice to Seller of such event, and (ii) Seller shall be granted the first right of refusal to acquire those affected Purchaser's Facilities which are utilized for the handling and/or combustion of Landfill Gas.

Purchaser shall incorporate the first refusal rights referenced in subparagraph (ii) above in any loan documents it chooses to enter into, where Purchaser conveys a security interest in all or any portion of Purchaser's Assets.

ARTICLE X

TAXES

10.1 Liability for Taxes: Seller shall pay or cause to be paid all taxes and assessments imposed on Seller with respect to the sale of Landfill Gas, the ownership of the Landfill, Seller's Facilities and associated equipment. Purchaser shall pay or cause to be paid all taxes and assessments imposed upon Purchaser with respect to the purchase of Landfill Gas and the ownership of Purchaser's Facilities and associated equipment. Neither party shall be responsible

or liable for any taxes or any other statutory charges levied or assessed against any of the facilities of the other party used for the purpose of carrying out the provisions of this Agreement.

ARTICLE XI

FORCE MAJEURE

11.1 Suspension of Obligations. If either party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, it is agreed that upon such party giving notice and reasonably full particulars of such Force Majeure in writing or by facsimile to the other party as soon as possible after the occurrence of the cause relied on, then the obligations of the party giving such notice other than the obligation to make payments due hereunder, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any such inability so caused but for no longer period, and such cause shall, as far as possible, be remedied with all reasonable dispatch.

11.2 Definition of Force Majeure. The term "*Force Majeure*" as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, hurricanes, floods, high-water washouts, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, freezing of wells or lines of pipe, partial or entire failure of wells, variation in the quantity or quality of Landfill Gas produced, enactment of statutes, laws, or regulations, acts of governmental bodies and any other cause or causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming Force Majeure. Force Majeure shall not include: (i) increases in the costs associated with the construction or operation of either party's facilities; (ii) changes in market conditions which make uneconomic the operation of either party's facilities; (iii) shortages of supplies or fuel or

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mechanical breakdown of equipment, or (iv) any cause which a party was able or would have been able to prevent or overcome, by the exercise of reasonable diligence.

11.5 Strikes or Lockouts. It is agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the party having the difficulty, and, that the foregoing requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the party having the difficulty.

ARTICLE XII

INDEMNITY

12.1 Indemnification. Each party shall defend, indemnify and hold the other party, including their affiliates and their directors, officers, partners, shareholders, employees, agents, representatives, co-ventures, tenants, contractors, or servants, harmless from and against any and all claims, penalties, demands, actions, proceedings, liability or losses of whatsoever nature including reasonable attorneys' fees for injury or death to person(s) or for damage or loss to or of property to the extent arising out of or caused by: (i) a breach of the terms of this Agreement by the indemnifying party; (ii) the indemnifying party's intentional or negligent operations or activities hereunder, or (iii) violation of applicable governmental laws, regulations or ordinances.

12.2 General. These indemnification obligations shall survive the termination of this Agreement. In no event shall either party be liable to the other for loss of anticipated profits or consequential, special or punitive damages.

PFE**ARTICLE XIII****SELLER'S AND PURCHASER'S OBLIGATIONS**

13.1 Seller's Obligations. Seller's primary obligation and business purpose is the safe, efficient, and economical management of its Landfill and Landfill Gas production system in accordance with any and all Federal, state, and local laws, rules, regulations, ordinances, and orders. Seller shall operate and manage its Landfill in such manner as Seller, in its sole discretion, deems advisable. Seller agrees not to unreasonably interfere with the operation and maintenance of Purchaser's Facilities or, consistent with the provisions set forth above, to cause an intentional, material disruption of delivery of Landfill Gas to Purchaser's Facilities. Seller shall inform Purchaser of operational changes or decisions which might reasonably and materially affect Landfill Gas production within a reasonable period before such changes are made.

13.2 Condensate Disposal. Without cost to Purchaser, Seller agrees to accept into its leachate collection system all condensate produced from processing Landfill Gas from the Landfill at Purchaser's Facilities ("Condensate"). Purchasers shall not introduce to the Condensate any constituents or otherwise increase the quantity of any existing constituents which would result in Seller's non-compliance with any applicable governmental permits, laws or regulations ("Condensate Contamination"). In the event additional handling, processing or disposal charges are incurred as a result of Condensate Contamination which result in additional costs to the Seller, Purchaser shall be responsible for any and all of such increased costs. Should acceptance of Condensate prevent Seller from being able to legally dispose of its leachate, Seller may refuse to accept such portion of Condensate and Purchaser shall be solely responsible for the proper disposal of such portion of Condensate, at Purchaser's sole cost and expense.

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Purchaser shall take appropriate action to ensure there is no spillage or unintended discharge of Condensate into the environment. For purposes of this section 13.2, any constituents, in both chemical composition and quantity that derive solely from Landfill Gas as delivered by Seller, other than Condensate Contamination, shall not be considered or to bring about the restrictions contained herein on Seller's acceptance of Condensate from Purchaser.

13.3 Purchaser's Obligations. Purchaser shall be solely responsible for all costs associated with the processing of Landfill Gas for the generation of electricity. Purchaser shall operate Purchaser's Facilities in a reasonably prudent manner and in accordance with the terms of this Agreement. Purchaser shall conduct its activities under this Agreement in such a manner as not to unreasonably interfere with Seller's use of the Landfill, unless Seller otherwise consents in writing. The noise levels produced by Purchaser's Facilities shall not cause a nuisance to the surrounding community, nor shall such noise exceed, at the boundaries of the Landfill, applicable state or local standards for noise. Noise from Purchaser's Facilities resulting in complaints and/or legal actions shall be the sole responsibility of Purchaser, and Purchaser shall indemnify and hold Seller harmless from such liability.

13.4 Non-Landfill Gas Generating Equipment. Under the terms of the Site Lease Agreement, if executed, Purchaser shall be permitted to construct and operate on the Leased Premises equipment for the generation of electrical energy which utilizes non-Landfill Gas fuel ("Non-Landfill Gas Generating Equipment"). Purchaser shall construct, operate and maintain such Non-Landfill Gas Generating Equipment in full conformance with all applicable governmental laws, regulations and ordinances, including, without limitation, environmental laws and regulations.

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13.4.1 Purchaser shall provide to Seller copies of any applications for required governmental permits, licenses or approvals associated with the Non-Landfill Gas Generating Equipment at the time of submission to the governmental entity.

13.4.2 To the extent that operation of the Non-Landfill Gas Equipment would cause Seller to incur additional costs or expenses for air emissions testing, monitoring or compliance related to the operation and maintenance of the Landfill, Purchaser shall be solely responsible for payment of such additional costs. To the extent Purchaser is unwilling or otherwise fails to provide payment for such increased costs, Seller may elect to remove such Non-Landfill Gas Generating Equipment from the Leased Premises, at Purchaser's sole cost and expense.

13.5 Environmental Matters.

13.5.1 All of Purchaser's Facilities which combust Landfill Gas shall meet all applicable NMOC destruction standards which are contained in the New Source Performance Standards for Sanitary Landfills, at Purchaser's sole cost and expense.

13.5.2 Purchaser shall construct, operate and maintain Purchaser's Facilities, and shall otherwise conduct its activities hereunder, in full conformance with all applicable environmental laws, regulations and ordinances.

13.5.3 Purchaser agrees to install: (i) double walled piping, and leak detection equipment, on any condensate line it places on Seller's property, and

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(ii) pressure monitoring equipment on any gas delivery line it places on Seller's property.

13.6 Contingencies. This Agreement is expressly contingent upon the following events:

- a. Purchaser's execution of a Power Purchase Agreement;
- b. Purchaser's determination, in its sole judgment, that adequate volumes of Landfill Gas are being produced by the Landfill so as to permit Purchaser to economically operate the electrical generating equipment;
- c. Purchaser's obtaining necessary land-use permits and zoning approvals;
- d. Purchaser's execution of a suitable land lease for the power plant site.

In the event the above contingencies are not satisfied or waived by Purchaser within 120 days from the date of execution of this Agreement, this Agreement may be terminated by either party upon written notice, and the parties shall have no further obligations to each other, except as to the indemnification obligations set forth in Article XII above.

ARTICLE XIV

WARRANTIES AND REPRESENTATIONS

14.1 Purchaser's Representations and Warranties: Purchaser represents and warrants to Seller as follows:

- a. Purchaser is a corporation duly organized and validly existing under the laws of the Commonwealth of Virginia, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder;

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- b. Purchaser has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Purchaser in accordance with its terms;
- c. To Purchaser's knowledge, neither the execution or delivery by Purchaser of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement or instrument to which Purchaser is a party or by which Purchaser or any of its properties or assets are bound, or constitutes a default thereunder;
- d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Purchaser, except such as have been disclosed to Seller and have been duly obtained or made; and
- e. Purchaser has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Purchaser, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Purchaser of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.

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14.2 Seller's Representations and Warranties: Seller represents and warrants to Purchaser as follows:

- a. Seller is a corporation duly organized and validly existing under the laws of the Commonwealth of Virginia, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder;
- b. Seller has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Seller in accordance with its terms;
- c. To Seller's knowledge, neither the execution or delivery by Seller of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement or instrument to which Seller is a party or by which Seller or any of its properties or assets are bound, or constitutes a default thereunder;
- d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Seller, except such as have been disclosed to Purchaser and have been duly obtained or made; and

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- e. Other than as previously disclosed by Seller to Purchaser in writing, Seller has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Seller, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Seller of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.
- f. Seller possesses full and adequate legal rights to the Landfill Gas which is to be sold pursuant to this Agreement, and there has been no prior conveyance of such rights to any other person or entity.

ARTICLE XV

INSURANCE

15.1 Purchaser's Insurance Requirements. At all times during the term of this Agreement, Purchaser shall maintain the following insurance coverages with an insurance company reasonably acceptable to Seller:

- a. Worker's Compensation Insurance, covering liability under applicable Worker's Compensation law, at the statutory coverage levels, including employer's liability insurance in an amount not less than \$100,000 for each accident; and
- b. Comprehensive general liability and property damage insurance in a combined single limit of not less than \$5,000,000 for death or injury to any person(s) or for property damage as a result of or in connection with

Purchaser's operation of its facilities required for the performance of its obligations hereunder. **OFF**

- c. Environmental Pollution Liability Insurance in the amount of \$2,500,000, with self-insurance coverage not to exceed \$250,000.

Purchaser shall name Seller as an additional insured party on each of the above policies of insurance and shall provide for 30 days written notice to Seller in advance of any termination or material change in coverage, and such policies shall contain a waiver of subrogation rights. Purchaser's policies of insurance shall be deemed primary coverage in relation to those policies of insurance maintained by Seller.

15.2 Seller's Insurance Requirements. At all times during the term of this Agreement, Seller shall maintain the following insurance coverages with an insurance company reasonably acceptable to Purchaser:

- a. Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels including employer's liability insurance in an amount not less than \$100,000 for each accident; and
- b. Comprehensive general liability and property damage insurance in a combined single limit of not less than \$5,000,000 for death and injury to any person(s) or for property damage as a result of any one occurrence which may arise out of or in connection with Seller's operation of its facilities required for the performance of its obligations hereunder.

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Seller shall name Purchaser as an additional insured party on each of the above policies of insurance and shall provide for 30 days written notice to Purchaser in advance of any termination or material change in coverage, and such policies shall contain a waiver of subrogation rights.

15.3 Certificates of Insurance. Each party hereto shall provide to the other party certificates of insurance to evidence that the required insurance coverage is in effect at all times during the term hereof.

ARTICLE XVI

ARBITRATION

16.1 Arbitration. If the Parties are unable to resolve a commercial dispute pertaining to this Agreement, such dispute shall be settled by binding arbitration to be held before a single arbitrator, pursuant to the commercial arbitration rules of the American Arbitration Association. Any arbitration award may be enforced in any court of competent jurisdiction. Either party may commence arbitration by serving written notice thereof on the other party designating the issue(s) to be arbitrated and the specific provisions of this Agreement under which such issues arose. Representatives from Seller and Purchaser shall meet for the purpose of jointly selecting an arbitrator within ten days after the date of such notice. If no arbitrator has been selected within twenty (20) days of the date of such notice, then an arbitrator shall be selected in accordance with the procedures of the American Arbitration Association. The arbitrator shall be bound by the provisions of this Agreement, where applicable, and shall have no authority to modify such provisions in any manner. The arbitrator may grant any remedy or relief he or she deems just and equitable within the scope of this Agreement, including interest and reasonable attorneys' fees on any award.

16.2 Effect on Obligations of the Parties. Pending the resolution of any disagreement by arbitration, Purchaser shall continue to operate Purchaser's Facilities in a manner consistent with this Agreement and Seller shall continue to provide Landfill Gas in accordance with the applicable provisions of this Agreement.

ARTICLE XVII

MISCELLANEOUS

17.1 Assignment. This Agreement may not be assigned by either party without the prior approval of the other party; provided, however, that Seller may assign this Agreement to a purchaser of all of Seller's interest in the Landfill or to an entity that is owned by or under common control or ownership with Seller and Purchaser may assign this Agreement to an entity that is owned by or under common control or ownership with Purchaser. Purchaser may assign this Agreement to a purchaser of all Purchaser's interest in the facilities required for the performance of Purchaser's obligations hereunder if Seller determines, in its sole judgment, that such Purchaser has the legal, economic and financial ability to perform all of the Purchaser's obligations hereunder. All covenants, terms, conditions, and provisions of this Agreement shall be binding upon the Parties hereto and shall extend to and be binding upon the successors and assigns of the Parties hereto.

17.2 Notices. Any notice, request, demand, statement and/or payment provided for herein shall be in writing and, except as otherwise provided herein, shall be sent to the Parties hereto at the following addresses:

Purchaser: Industrial Power Generating Corporation
2369 Lanier Road
Rockville, Virginia 23146
Attention: Vice President--Development

Seller: USA Waste of Virginia, Inc.
Amelia Landfill
20221 Maplewood Road
Jetersville, Virginia 23002
Attention: Attn: Site Manager

With copy to: Waste Management of Pennsylvania, Inc.
2710 Golden Key Road
Kutztown, Pennsylvania 19530
Attention: Director of LFG Energy

All payments made by the Parties shall be sent to the applicable address shown above.

Such notices, etc., shall be deemed to have been given and received when personally delivered or upon receipt as evidenced by a U.S. Postal Service Receipt for Certified Mail or by facsimile or by evidence of delivery by a private express mail service. Either party may change the address to which communications or payments are to be made by written notice to the other party as set forth above.

17.3 Entire Agreement, Integration, and Amendments. This Agreement is intended by both parties as the expression of their agreement with respect to the subject matter, both written and oral, and supersedes all previous agreements. This Agreement may be modified only by a written amendment executed by both Parties.

17.4 No Waiver. The waiver by either Purchaser or Seller of any failure on the part of the other party to perform any of its obligations under this Agreement shall not be construed as a waiver of any future or continuing failure or failures, whether similar or dissimilar thereto.

17.5 Choice of Law. This Agreement and any provisions contained herein shall be interpreted under the laws of the Commonwealth of Virginia without regard to principles of conflict of law.

17.6 Economic Grants. The parties may seek to obtain any and all local, state or federal economic development, recycling, environmental and other grants and/or benefits for

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which they may be eligible as a direct result of their respective rights, obligations and performance hereunder, and the Parties shall coordinate and cooperate with each other in that regard.

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this Agreement by the officers whose names appear below as of the date first written above.

INDUSTRIAL POWER GENERATING
CORPORATION

Attest:

MB Ellison
MB Ellison

By:

C J Packard

Printed Name: C J PACKARDTitle: PRESIDENT

USA WASTE OF VIRGINIA, INC.

Attest:

Brenda Adkins
Brenda Adkins

By:

Lee Wilson

Printed Name: LEE WILSONTitle: DISTRICT MANAGER

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EXHIBIT "A"

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MILESTONES

Purchaser agrees to perform the following within the times indicated After Execution of this Agreement (AEA):

2 Months AEA	Submittal of construction plan to Seller.
3 Months AEA	Submittal of required air permit applications
6 Months AEA	Initiate construction.
12 Months AEA	Commercial operation.

EXHIBIT "B"

SITE LEASE AGREEMENT

This Site Lease Agreement ("Lease") is made this 19th day of October, 2000 by and between USA Waste of Virginia, Inc., a Virginia corporation, whose address is 2710 Golden Key Road, Kutztown, Pennsylvania 19530 ("Lessor") and Industrial Power Generating Corporation, a Virginia corporation whose address is 2250 Dabney Road, Virginia 23230 ("Lessee").

WITNESSETH:

1. Property Description. Lessor, in consideration of the rents and obligations stipulated to be paid and performed by Lessee, does hereby lease to Lessee the premises described in Attachment "1" ("Leased Premises"). In addition, Lessor hereby grants to Lessee, its agents, employees and contractors, a concurrent license for ingress and egress to the Leased Premises, as may be necessary to allow Lessee to perform its obligations under this Lease and the Landfill Gas Purchase Agreement executed of even date ("Gas Agreement").

2. Term. Lessee shall have and hold the Leased Premises for an initial term commencing on the effective date of the Gas Agreement, and continuing until one year after the termination of the Gas Agreement.

3. Quiet Enjoyment. Lessor covenants that Lessee, by paying the rents and observing its obligations under this Lease, shall lawfully and peaceably hold, occupy and enjoy the Leased Premises during the term herein created, or any extension thereof. Any default by Lessee as Purchaser under the Gas Agreement shall be deemed a default under this Lease. Lessor agrees that any mortgage or other lien instrument which Lessor may place upon the Leased Premises shall be expressly subject to the terms of this Lease.

4. Rent. Commencing on the effective date of the Gas Agreement, Lessee shall pay annual rent in the amount of \$ [REDACTED]

5. Construction and Purchase of Improvements and Equipment

a. Lessee shall be permitted to install and maintain on the Leased Premises:

- (i) any and all necessary equipment for the processing of Landfill Gas (as such term is defined in the Gas Agreement) and conversion to electrical energy, including without limitation, Purchaser's Facilities (as such term is defined in the Gas Agreement), ("Improvements"), and (ii)

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Non-Landfill Gas Generating Equipment (as such term is defined in the Gas Agreement), all at Lessee's sole cost and expense.

b. Subject to Lessor's reasonable prior written consent, Lessee may, at its option and at its own cost and expense, at any time and from time to time, make such alterations, changes, replacements, improvements, and additions in and to the Improvements as Lessee may deem desirable. Lessee will not permit the Leased Premises to become subject to any lien on account of labor or material furnished to the Lessee or its agents in connection with work of any character performed or claimed to have been performed on the Leased Premises by or at the direction of the Lessee, provided, however, the Lessee shall have the right to contest in good faith and with reasonable diligence the validity of such lien or claimed lien.

c. Until the expiration or earlier termination of this Lease, title to any Improvements situated on or erected on the Leased Premises, as hereinabove allowed (excluding Improvements of such a character that removal would cause damage to the Leased Premises), and any equipment or other property installed thereon and any alteration, change of addition thereto shall remain solely in Lessee, or, subject to Lessor's prior approval, which approval shall not be unreasonably withheld: i) in a third party purchaser of the electricity generated by Lessee; or ii) in a third party who holds title for reasons related to Lessee's financing of the Improvements. Nothing herein shall preclude Lessee from operating such Improvements in the event of Lessor's default and failure to cure, pursuant to the provisions of the Gas Agreement.

d. Upon expiration or earlier termination of this Lease, Lessor and Lessee agree that Lessee shall have a one year period thereafter in which to remove from the Leased Premises all Improvements. All Improvements which have not been removed prior to the expiration of such period shall, at Lessor's option, be deemed to have been abandoned, whereupon title to such Improvements, shall vest in Lessor on such date, without any payment or other consideration given by Lessor. Alternatively, Lessor may require Lessee to remove all or any part of such Improvements at Lessee's expense. If Lessee fails to remove such Improvements pursuant to Lessor's request, Lessor may remove said Improvements at Lessee's expense.

e. Lessor's consent to Lessee's construction and/or installation of Improvements pursuant to this Paragraph 5 shall not create any warranties in favor of Lessee or any third party as to the design, suitability, regulatory compliance or other attributes of such Improvements.

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f. Lessor shall have the right to review and accept all plans for design and construction of the Improvements before Lessee commences construction and/or installation, and to monitor Lessee's operations on the Leased Premises. Such review and approval shall be limited to the extent necessary to enable Lessor to determine that the Improvements and the operation thereof, does and will:

- (i) comply with the terms of both this Lease and the Gas Agreement;
- (ii) not adversely affect, in any material respect, Lessor, its agents, employees, officers and directors or post-closure activities at the Amelia Landfill ("Landfill");
- (iii) comply with Lessor's aesthetic requirements; and
- (iv) not emit noxious odors or excessive noise as defined by applicable regulations.

g. Lessee shall comply with all applicable laws, regulations and orders of governmental bodies at all times in the conduct of its activities on the Leased Premises.

6. Destruction of Improvements. In the event the Improvements are partially or totally destroyed such that they cannot, in Lessee's reasonable opinion, be used for their intended purposes, and such destruction is caused by an act or omission of Lessor (whether in its capacity as Lessor or otherwise) then the rent payable under this Lease shall immediately and fully abate until the Improvements are fully restored. If it is not economically feasible to reconstruct such Improvements, then regardless of the cause of the destruction, Lessee shall have the right to terminate this Lease on thirty (30) days' written notice to Lessor to the extent and in a manner consistent with the termination provisions set forth in the Gas Agreement. Lessee, upon the effective date of such termination, shall have no further obligations or liabilities hereunder except as to those covenants and obligations which expressly survive the termination hereof, including but not limited to the removal of the Improvements as set forth in Paragraph 5.

7. Use of Leased Premises. Lessee shall use the Leased Premises solely in accordance with the terms of the Gas Agreement. Any condensate or other waste products resulting from Lessee's operations shall be disposed of in accordance with the provisions of the Gas Agreement. Lessee's use of the Leased Premises shall be on a non-exclusive basis except that Lessee shall have exclusive use of water from wells installed by Lessee and located within

the "Water Rights Boundary" as indicated on Attachment 1. The parties agree to conduct their respective activities on the Leased Premises in such a manner so as not to unreasonably disturb each other's business operations.

8. Responsibility of Claims. Irrespective of the indemnification provisions of Paragraph 12.1 of the Gas Agreement, Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons, in, upon, or about the Leased Premises during the term of this Lease from any cause, and Lessee hereby waives all claims in respect thereof, against Lessor. Lessee's sole right shall be rent abatement, in accordance with the provisions of paragraph 6 above. Lessor shall not be liable for loss of or damage to any property by theft or otherwise, or for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of any building or from the pipes, appliances or plumbing works therein, or from the roof, street or subsurface, or from any other place resulting from dampness or any other cause whatsoever. Lessee shall give immediate notice to Lessor of any fire, accident or defect discovered with the Leased Premises. Lessee acknowledges that Lessee can protect itself against any or all of the foregoing risks by procuring appropriate insurance.

9. Default.

a. If the rental payments set forth in this Lease or payments for Landfill Gas set forth in the Gas Agreement, or any part thereof, shall remain unpaid for a period of twenty (20) days after they become due, or if Lessee shall be in default with respect to any of its covenants herein contained, or any of the covenants, terms or conditions of the Gas Agreement, Lessor may notify Lessee in writing, giving a reasonably detailed description of the default. Lessor may declare this Lease and Gas Agreement terminated and shall be relieved from further performance of any obligations hereunder if Lessee fails to cure, or commence the cure of, any default within the sixty (60) day period immediately following receipt of Lessor's notice of default and, after said period, fails to diligently pursue the cure to completion.

b. If Lessee fails to cure or commence the cure of said default within sixty (60) days following receipt of Lessor's notice of default, Lessor may at its election, in addition to its rights under sub-paragraph a. above, and not in lieu thereof, cure such default and charge the cost of effecting such cure from rentals accruing hereunder, and amounts due and owing under the Gas Agreement.

c. In the event either party waives a default by the other party, such waiver

shall not be construed or deemed to be a continuing waiver of any subsequent breach or default on the part of either party.

d. The provisions of Article IX of the Gas Agreement are hereby incorporated by reference. A breach of the terms of the Gas Agreement shall be deemed a breach of the terms of this Lease.

10. Warranty. Lessor represents and warrants the following to Lessee:

a. Lessor possesses fee simple title to the Leased Premises;

b. Lessor has the power and authority to execute and deliver this Lease and carry out and perform all covenants to be performed by it hereunder.

c. The Leased Premises are free from all mortgages, encumbrances, liens, defects in title, violations of law or environmental regulations, leases, tenancies, easements, restrictions and agreements of any kind whatsoever affecting the Premises which would substantially interfere with or obstruct Lessee's use of the Leased Premises for the purposes described herein; and

d. At the time of the commencement of the term hereof, non-exclusive physical possession of the Leased Premises will be delivered to Lessee.

11. Indemnification. The provisions of Article XII of the Gas Agreement are incorporated by reference.

12. Notices. The provisions of Paragraph 17.2 of the Gas Agreement are incorporated by reference.

13. Force Majeure. The provisions of Article XI of the Gas Agreement are incorporated by reference.

14. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

15. Definition. Wherever the words "Lessor" and "Lessee" appear in the Lease, they shall include the respective parties hereto and their respective successors and assigns.

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16. Complete Agreement. This Lease is intended to constitute a final, complete and exclusive expression of their agreement on the subject matter hereof, and shall not be changed, modified, discharged, or extended, except by subsequent amendment in writing signed by both parties.

17. Waiver. The waiver by either Lessor or Lessee or any failure on the part of the other party to perform any of its obligations under this Lease shall not be construed as a waiver or any future or continuing failure or failures, whether similar or dissimilar thereto.

18. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original.

19. Partial Invalidity. If any term or provision of this Lease, or the application thereof to any person or circumstance, becomes invalid or is found to be unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

20. Assignment. The provisions of Paragraph 17.1 of the Gas Agreement are incorporated by reference.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Lease to be executed on the date and year first written above.

WITNESSES:

USA WASTE OF VIRGINIA, INC.
("Lessor")

By: Lee Wilson
Printed Name: Lee Wilson
Title: District Manager

WITNESSES:

INDUSTRIAL POWER
GENERATING CORPORATION
("Lessee")

By: Charles J. Packard
Printed Name: Charles J. Packard
Title: President

ATTACHMENT 1 TO EXHIBIT B OF
LAND OIL GAS PURCHASE AGREEMENT
EFFECTIVE 10/15/2000

